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10/021,918	12/13/2001	Eric Berra	16124-7	2251

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EXAMINER

VU, STEPHEN A

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/021,918

Applicant(s)

BERRA, ERIC

Examiner

Stephen A Vu

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 1/2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group II in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the species are not patentably distinct. This is not found persuasive because the species contain various embodiments as stated by the applicant, and therefore, would consider to be patentably distinct. The examiner is in agreement with the applicant that Species should be related to Figures 1-6 and 11-16.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on December 13, 2001 was filed is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 7. A proposed drawing correction or corrected drawings are required in

reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the proper headings to the related subject matter are missing, i.e. Background of the Invention, Summary of the Invention, etc.

Appropriate correction is required.

The abstract of the disclosure is objected to because the reference to "(Figure 1)" should be removed. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claim 15 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 112***

Claims 1-5 and 7-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, and claim 15, lines 1-2, the phrase "in particular" is considered to be vague and indefinite, since the claims recite a broad limitation (seat), and then use the linking term (in particular) to narrow the limitation down to a seat for amusement parks.

Claim 5 recites the limitation "a device" in line 3. There is insufficient antecedent basis for this limitation in the claim. It is unclear if this is a different "device" from the "device comprising two flaps".

Claims 1-5 and 7-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There appears to be an inconsistency between the language in the preamble and certain portion or portions in the body of independent claim 1; thereby making the scope of the claims unclear. For example, the claim language of "a device for locking the legs of a passenger in a seat", as recited in the preamble of claim 1, lines 1-2, clearly indicates that a subcombination is claimed.

The problem arises when the device and seat are positively recited within the body of the claim. The preamble indicates subcombination, while in the body of the claim there is a positive recital of structure indicating that the combination of a device and seat are being claimed.

Applicant should clarify what independent claim 1 is intended to be drawn to, i.e. either the device alone or the combination of the device with the seat. Applicant should make the language of the claims consistent with the applicant's intent. If the applicant intends to claim the combination, then the language in the preamble should be made consistent with the language in the body of the claims. If the applicant intends to claim only the subcombination, then the body of the claim must be amended to remove any

positive recitation of the combination. Please note for examination purposes, the examiner has interpreted that the claims are drawn to the combination of the device and the seat.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Walsh.

Walsh shows a seat (12) comprising a base (22) fixed on a support (24) and a device having two flaps (52) mounted at the end of the support of the base of the seat.

With claim 2, a mechanism (56) for actuating the movement of the flaps and having members acting on levers (34) fixed to the flaps.

With claim 3, the mechanism comprises an actuation lever.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Alfred et al.

Alfred et al show a seat (30) comprising a base (16) fixed on a support (14) and a device having two flaps (46) mounted at the end of the support of the base of the seat.

With claim 2, a mechanism (50) for actuating the movement of the flaps and having members acting on levers (42) fixed to the flaps.

With claim 3, the mechanism comprises an actuation lever.

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Walton.

Walton shows a seat (10) comprising a base (36) fixed on a support (38) and a device having two flaps (17) mounted at the end of the support of the base of the seat.

With claim 2, a mechanism for actuating the movement of the flaps and having members acting on levers fixed to the flaps.

With claim 3, the mechanism comprises an actuation lever.

***Allowable Subject Matter***

Claims 4-5 and 7-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mares et al, Brevard et al, Skowronski, Fogg, Jr. Et al, Bollinger et al, and Mares are cited as showing similar types of restraining device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Stephen Vu  
December 12, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600